IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1221 OF 2004

The State of Maharashtra ..Appellant

V/s.

Balaso Lalaji Kurane & Ors. ..Respondents

Mr.D.R.More APP for Appellant/State.

Coram : R.S.Mohite,J

Date :10th January, 2006.

PC

1. This is an appeal filed by the State impugning a Judgment passed by the Chief Judicial Magistrate, Kolhapur, on 7.7.2004 acquitting the accused for offences punishable under Sections 323, 324, 504 and 506 r/w 34 of IPC. Perusal of the impugned judgment indicates that the same has been passed for cogent and acceptable reasons. The prosecution case was that a dog entered into the house of Complainant Ramchandra and accused no.1 pelted a stone at the dog. When the complainant accosted the accused, accused no.1 threatened him. When the complainant was going towards the police station for lodging complaint, accused no.1 threatened him and beat him by giving blow of axe on his head. At that time the wife and son of the complainant came there but the

accused beat them. It is observed in the judgment that there are 3 eye witnesses who have been examined by the prosecution. The version given by them however, is that the complainant was assaulted when they were returning back from the police station alongwith complainant. Their further version is accused no.1 took an axe from Bhikaji and gave blow of axe on the head of his son Ganesh. This story is contrary to the complaint given by the complainant. The prosecution did not examine Bhikaji who was an important witness to corroborate the story of the prosecution. None of the weapons have been seized by the investigating officer. There was over writing regarding the date of the medical certificate and the medical evidence did not tally with the ocular evidence. In my view, not a fit case to interfere and hence the leave refused and consequently, appeal stands dismissed.

(R.S.Mohite,J)